IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

I.T.R. No.154 of 1989
Date of decision: 01. 12.2006

The Commissioner of Income Tax, Haryana (Rohtak).

---Applicant

Vs.

M/s National Industrial Corporation, Panipat.

-----Respondent

CORAM:- HON'BLE MR JUSTICE ADARSH KUMAR GOEL
HON'BLE MR JUSTICE RAJESH BINDAL

resent: Mr. Yogesh Putney, Advocate
for the revenue.

ORDER:

Following questions of law have been referred for opinion of this Court by the Income Tax Appellate Tribunal, Chandigarh Bench, Chandigarh, arising out of its order dated 15.03.1980 in I.T.A. No.288/Chandi/76-77 in respect of assessment years 1961-62:-

> "(i) Whether on the facts and in the circumstances of the case, the Tribunal has erred in law in affirming the order of the Appellate Asstt. Commissioner deleting the addition of Rs.32,094/- made by the ITO on account of income from other sources?
>
> (ii) Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the reopening of assessment u/s 147(a)/148 was bad in law?
>
> (iii) Whether on the facts and in the circumstances of the case, the Tribunal was right in law in failing to give any finding/devision on the second ground of appeal viz remission of interest u/s 139(8) allowed by the AAC?"

Originally, the assessment in the case of the assessee for the assessment year 1961-62, was completed on 31.03.1962. Later on, proceedings for re-assessment were initiated on the ground that assessee had introduced bogus

hundi loans and addition of Rs.30,000/- was made, apart from addition of Rs.2,094/- towards interest. The appellate authority deleted the addition, holding that the assessee had given sufficient explanation for the cash credits.

On appeal, the view taken by the appellate authority was upheld for the additional reason that initiation of reassessment proceedings was not called for in the absence of assessee having failed to discharge fully and truly all material facts necessary for assessment.

We have heard learned counsel for the revenue and perused the record. We do not find any material to interfere with the finding of the Tribunal that there was no justification for initiating proceedings for reassessment in view of finding that assessee had fully and truly disclosed all the material facts necessary for assessment.

The question No.(ii) is, thus, answered against the revenue and in favour of the assessee.

In view of our finding with regard to question No.(ii), we need not adjudicate upon the question No.(i) and (iii), which arise on merits in the re-assessment proceedings.

The reference is disposed of accordingly.

(ADARSH KUMAR GOEL)
JUDGE

December 01, 2006
ashwani

(RAJESH BINDAL)
JUDGE